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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/693,089

10/24/2003

Kelley Jones

SASL:013\HON

8449

Docket Clerk  
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Dallas, TX 75380

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09/24/2007

EXAMINER

LOWE, MICHAEL S

ART UNIT

PAPER NUMBER

3652

MAIL DATE

DELIVERY MODE

09/24/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/693,089

**Applicant(s)**

JONES, KELLEY

**Examiner**

M. Scott Lowe

**Art Unit**

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Lebre (US 3,041,101).

Re claims 1,2,8, Lebre teaches a tool that could be used for lifting a CMP pad T, comprising:

a non-pivoted jaw structure 18 (or 2) having an upper jaw portion with an arcuate lower surface and a lower jaw portion (not numbered), the lower jaw portion having outer and inner surfaces, wherein the inner surface is substantially flat and not parallel to the outer surface, the inner surface being operable to receive a portion of the pad T;

a first member 19 (or also 8 or 21) pivotally coupled to the jaw; and

a second member 20 ( or also 1 or 19 respectively) when pivotally coupled to the first member, the second member having a surface opposite to the inner surface of the lower jaw portion and operable for clamping the portion of the pad against the inner surface when the first member is pivoted upwards.

Re claims 3,9, Lebre teaches the jaw is arcuate.

Re claims 4,10, Lebre teaches the jaw 18 (or 2) comprises a first half (2a or 18a, or top of 18/2) coupled to a second half (2b or 18b, or bottom of 18/2).

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Re claims 5,11, Lebre teaches in the figures that the lower jaw portion comprises a substantially flat outer surface.

Re claim 6,12 Lebre teaches the first member 19 (or also 8 or 21) comprises a cutout (not numbered) in which a portion of the second member 20 (or also 1 or 19 respectively) is pivotally positioned.

Re claim 7,14, Lebre teaches the surface of the second member 20 (or also 1 or 19 respectively) comprises a textured surface.

Re claim 13, Lebre teaches a cap (various apply including pin or sidewalls) coupled to the first member to laterally enclose the cutout.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5,11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lebre (US 3,041,101).

Re claims 5,11, Lebre does not explicitly state in words whether the outer surface of the lower jaw is substantially flat (although it appears so from the figures, particularly figures 2,3,5 where it is clearly flat). Nonetheless, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Lebre to

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have the outer surface of the lower jaw be substantially flat in order to make the manufacturing simpler and so the device could lay flat on the ground.

Claims 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lebre (US 3,041,101) in view of Krauss (US 6,086,126).

Re claim 15, Lebre teaches a tool that could be used for lifting a CMP pad T, comprising:

a non-pivoted jaw structure 18 (or 2) having an upper jaw portion with an arcuate lower surface and a lower jaw portion (not numbered), the lower jaw portion having outer and inner surfaces, wherein the inner surface is substantially flat and not parallel to the outer surface, the inner surface being operable to receive a portion of the pad T;

a handle 10 pivotally coupled to the jaw; and

a member (1 or 19 or 20 all meet this) pivotally coupled to the handle, the member having a textured surface projecting below the arcuate lower surface of the upper jaw portion and being opposite to the inner surface of the lower jaw portion, the textured surface being operable for clamping the portion of the pad against the inner surface when the handle is pivoted upwards.

Lebre is silent as to whether the inner surface of the lower jaw portion terminates at a lower end in a rounded end. However, Krauss teaches the inner surface of the lower jaw portion terminates at a lower end in a rounded end for safety. It would have been obvious to one of ordinary skill in the art at the time the invention was made to

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have modified Lebre by Krauss to have the inner surface of the lower jaw portion terminates at a lower end in a rounded end for safety.

Re claim 16, Lebre teaches the jaw is arcuate.

Re claim 17, Lebre teaches the jaw 18 (or 2) comprises a first half (2a or 18a, or top of 18/2) coupled to a second half (2b or 18b, or bottom of 18/2).

Re claim 18, Lebre teaches in the figures that the lower jaw portion comprises a substantially flat outer surface. If it is determined that Lebre does not teach this then it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Lebre to have the outer surface of the lower jaw be substantially flat in order to make the manufacturing simpler and so the device could lay flat on the ground.

Re claim 19, Lebre teaches the handle 10 comprises a cutout (not numbered) in which a portion of the member (1 or 19 or 20 all meet this) is pivotally positioned.

Re claim 20, Lebre teaches a cap (various apply including pin or sidewalls) coupled to the member to laterally enclose the cutout.

### ***Conclusion***

Applicant's arguments filed 7/5/07 have been fully considered but they are not persuasive.

Applicant argued that Lebre lacks a non-pivoted jaw structure, but as noted in the passage applicant cites (column 1, line 44+ and figures 1,2) element 2 (as well as

element 18) is a jaw that is not composed of pivoted elements and is thus a non-pivoted jaw.

Applicant argued that Lebre lacks the claim jaw structure and makes his own claim rejection. However this is not the actual rejection used and it is clear from the figures that each limitation is taught by Lebre even if the elements are not numbered.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one of ordinary skill to have modified Lebre as noted in the rejections in order to simplify manufacturing , etc.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Scott Lowe whose telephone number is (571) 272-6929. The examiner can normally be reached on 6:30am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571)272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

msl 9/10/07  
msl

  
SAUL RODRIGUEZ  
SUPERVISORY PATENT EXAMINER